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The Economic Bulletin

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PERSONAL AND MISCELLANEOUS NOTES¹

Editorial Foreword. For many years the need of widening the scope of the *Publications* of the American Economic Association has been evident. At the annual meetings, in the executive committee, and through correspondence, various plans have been discussed. The plan of merging existing economic periodicals proved to be impracticable, the undertaking of a new journal, duplicating any already in the field was deemed inadvisable. The outcome of the discussion is the present ECONOMIC BULLETIN which it is hoped may perform a distinctive service to the cause of economic study in America.

The spirit of the BULLETIN will be, like that of the Association, predominantly scientific.

The BULLETIN will not advocate or promote any of the reforms which the varied membership of the Association may favor. It will seek to be a sort of "trade journal" for all interested in the scientific study of economic questions. It will in the department of Personal and Miscellaneous Notes keep economists in touch with each other throughout the year, serving somewhat the same valuable purpose as the annual meetings of the Association. It will notice new undertakings in private research, governmental and pri-

¹ Each number of the BULLETIN will contain a department of Personal and Miscellaneous Notes. These notes will cover recent appointments to academic, governmental and other scientific positions, in the field of economics, announcements of scientific investigations being made, of meetings of learned societies, and notices of other events of interest to economists.

The success of this feature of the BULLETIN will depend largely upon the support given it by economic students throughout the country; and the editors earnestly solicit the coöperation of all members of the Association. Notes should be sent to the Managing Editor as early as possible, and wherever practicable should be written on the ordinary 3 x 5 index card. The second number of the Bulletin will go to press about June first.

vate investigations, the opening of social museums, libraries, etc.—whatever opens up new data for students of social problems. The BULLETIN as at present planned, does not include the publication of original articles, studies or essays. It will rather act as a review of reviews, furnishing through the coöperation of many students, a bibliographical aid as complete and helpful as possible. This plan will be developed as the needs and the desires of the members of the Association dictate.

The executive committee, to which the Association has assigned the task of publishing the BULLETIN, designated a sub-committee and appointed a managing editor. The notable list of departmental editors who were appointed during the administration of the previous managing editor, Prof. C. W. A. Veditz, is a promise of scholarly achievement. The management is, however, dependent for performance of its duty upon the coöperation of every member of the Association. May the ECONOMIC BULLETIN justify its existence and prove a useful agent in advancing the cause of scientific studies in economics and the other social sciences in America.

The 1908 Hand Book of the Association shows that in February there were 842 members, and 152 subscribers to the *Publications*. The above membership included 67 life members and 11 honorary members. The geographic distribution of the members was as follows: Continental United States 787, Europe 36, Japan 9, Canada 4, Hawaii 3, China, Central America, and Porto Rico, each 1. There was no member of the Association in the Philippine Islands.

The executive committee of the Association held its spring meeting on March 14, at the City Club, New York. Those present were: President Patten, Ex-president Hadley, Vice-presidents Dewey and Glenn, Secretary Daniels, and Messrs. Emery, Fetter, Hollander, Seager and Kemmerer.

The committee took action releasing the Macmillan Company from their contract for handling the *Publications* of the Association. In the future the *Publications* will be handled directly by the Secretary and will be called the *American Economic Association Quarterly*. This change of name was necessitated by a recent ruling of the post-office department with reference to postage rates.

The sub-committee appointed by the executive committee of the Association to arrange for the publication of the *BULLETIN* consists of the following persons: W. M. Daniels of Princeton University, J. H. Hollander of Johns Hopkins University, and F. A. Fetter (chairman) of Cornell University.

The American Statistical Association held its annual meeting in Boston, January 17, 1908. In accordance with a vote taken a few months before, a president's report was given. The speaker was Hon. Carroll D. Wright, and the subject was a review of the development of statistics in the United States. This address was followed by an address by Hon. S. N. D. North, director of the census, as vice-president, on the present situation and outlook for statistical work.

These addresses were given after a dinner at which about one hundred members of the society were present. At a previous business meeting it was recommended that the constitution be so amended as to authorize that the annual meeting be held in various parts of the country. The amendment will probably be adopted and in that case it seems likely that the Association will hold its next meeting in connection with the American Economic Association, American Association for Labor Legislation, and the American Sociological Society at Atlantic City during the week between Christmas and New Year.

The recent gift of \$50,000 by Andrew Carnegie to found a chair of economics and finance at Beloit College was made as a tribute of respect by the donor for Mr. Horace White, one of the oldest of Beloit's graduates.

Charles J. Bullock who has been assistant professor of political economy at Harvard University since 1903, has recently been promoted to a full professorship.

Several men of economic training have recently been appointed Special Agents or Special Examiners in the Bureau of Corporations. Those appointed since January 1, 1907, include the following, the university in which each received his economic training being specified:

E. S. Bradford, University of Pennsylvania; Howard H. Cook, Harvard University; Meyer Jacobstein, Columbia University; H. C. McCarthy, Harvard University; Selden O. Martin, Harvard University; Aaron M. Sakoliki, Johns Hopkins University; Benjamin F. Wright, University of California.

The headquarters of the American Association for Labor Legislation has recently been transferred from Albany, New York, to Madison, Wisconsin. The secretary of the Association is Prof. John R. Commons.

Dr. C. C. Huntington is engaged on the tobacco trust investigation, for the Bureau of Corporations.

W. W. McLaren, assistant in Harvard University, has been appointed Professor of Economics and Political Science in Keiogi-juku University in Tokio, Japan.

Beginning with next year an increase of 25 per cent will be made in the scale of salaries paid to professors and instructors in the University of Chicago. The increase will be made in the salaries of about one hundred members of the faculty at the beginning of the year, and will ultimately be extended to the entire faculty. According to the new scale the salaries of heads of departments will vary from \$4000 to \$6000; of professors, not heads of departments, from \$3000 to \$4500; of associate professors, from \$2500 to \$3000; of assistant professors, from \$2000 to \$2500; of instructors from \$1200 to \$1800. The increase is made possible through a recent gift of \$2,000,000 by John D. Rockefeller for the endowment fund.

Prof. Garrett Droppers, who is in charge of the department of economics at Williams College during the current year, was engrossed by his duties as Secretary of the Massachusetts Commission on Commerce and Labor during the greater part of February and March. During his absence from Williamstown his courses in economics were conducted by Dr. C. P. Huse of Harvard University.

The International Congress of Tuberculosis will meet at Washington, September 21 to October 12. Among the scientists who

are expected to be present are: Koch, Von Behring, Kitasato Landouzy, Colmette, Newsholme and Osler. Section V of the Congress has for its subject Hygienic, Social, Industrial, and Economic Aspects of Tuberculosis.

Prof. C. J. Bullock of Harvard University has been active as a member of the Massachusetts Tax Commission, which has made an elaborate report to the legislature of Massachusetts. The most important proposal made in the report is for the imposition of a uniform tax of three mills per dollar on securities and other intangible property. The report contains a mass of material regarding the actual working of the tax system as it stands in Massachusetts, and recommendations as to the distribution of the proceeds of other taxes.

Prof. John A. Fairlie, of the University of Michigan, has obtained leave of absence for the second semester and has been temporarily appointed as a Special Examiner in the Bureau of Corporations at Washington. His duties are chiefly in connection with the investigation of water transportation which is being conducted by the Bureau. During Professor Fairlie's absence from the University of Michigan, Prof. J. B. Phillips of the University of Colorado, is conducting his courses. Mr. W. L. Bailey is temporarily in charge of Professor Phillips' courses at Boulder.

An exhibit of congestion of population in New York took place in the building of the American Museum of Natural History in New York City for three weeks, March 9 to March 29 inclusive. During most of the first week a conference was held in which were discussed such questions as land values, playgrounds, relation of immigration to congestion, the problem of rapid transit, and taxation as affecting distribution of population. The following members of the American Economic Association were on the program of the conference: Governor Charles E. Hughes, Felix Adler, William H. Allen, Edward T. Devine, John H. Finley, Homer Folks, E. R. L. Gould, Robert W. Hebbard, Jeremiah W. Jenks, Lawson Purdy and Henry R. Seager. The exhibit which was prepared by a volunteer committee supported by private subscriptions, included many models of tenements and of rapid transit devices, graphic statistical charts and maps, and

hundreds of pictures showing conditions in all parts of the world. Beginning April 6, the exhibit will be shown in Brooklyn.

Prof. George M. Fisk, of the University of Illinois, has tendered his resignation to take effect at the close of the present academic year. He will live in Madison, Wisconsin, and devote his leisure time to investigation and writing, giving special attention to the commercial relations of the United States.

Prof. Carroll W. Doten of the Massachusetts Institute of Technology, in addition to his work at the Institute is conducting investigations as the head of the research department of the Boston School for Social Workers under a grant from the Sage Foundation.

This department employs at the present time nine fellows and workers and has three lines of investigation under way: Inebriety, Seasonal and Irregular Employment, and Coöperation in New England.

Mr. Charles B. Austin, assistant in economics in Indiana University, is preparing for the Carnegie Institution a monograph on labor legislation in Indiana.

Prof. C. E. Stangland of the State College of Washington, is abroad on leave of absence this year, studying labor conditions in France and Italy. His work at the State College is being carried on during his absence by Dr. Abraham Berglund.

The Bureau of Corporations at Washington is conducting several important economic investigations, the results of which will probably be published, in whole or in part, during the present year. These include investigations of the iron and steel industry, the tobacco industry, the lumber industry, the cotton exchanges, and internal and coastwise water transportation.

Prof. Henry C. Adams of the Interstate Commerce Commission gave an address, March 9, before the Seminary of Economics at Harvard University on Government Supervision of Railroad Accounts.

During the last two months, in connection with a committee of the National Civic Federation, Prof. J. W. Jenks of Cornell Uni-

versity, has been assisting in the preparation of a bill to amend the Sherman Anti-Trust Act. At a general conference held in Chicago some months ago, it was decided that the time was ripe for some important amendments to this act. A bill has accordingly been prepared, and as a member of the special committee in charge of the work, Professor Jenks has appeared before the Judiciary Committee of the House of Representatives to explain the bill. More work of a similar nature remains to be done.

Burdette G. Lewis has resigned his position in the Division of Statistics and Accounts of the Interstate Commerce Commission to accept a place as statistician with the New York Public Service Commission of the first district.

Prof. B. H. Hibbard of Iowa State College has a leave of absence for the fall semester next year, and will spend the time in study in Europe.

Dr. Isaac A. Hourwich has recently been appointed senior statistician for the Public Service Commission, New York City.

Dean Joseph French Johnson of the New York University School of Commerce appeared before the House Committee on Currency, the latter part of February, as an expert on banking.

A Social Education Conference, in continuation of the work of the Social Education Congress of 1906, was held in Boston, March 6-8, 1908. The subject of the conference was the Social Education of Girls and Women. Mr. James P. Munroe was chairman of the committee in charge. Among the speakers were Mrs. Florence Kelley, and Prof. T. N. Carver.

Dr. Roswell C. McCrea has been appointed by the trustees of Columbia University to make an investigation and report on the work of humane societies and on humane education in the United States. This work will be carried on under the auspices of the newly established Henry Berg Foundation for the promotion of humane education.

Dr. T. J. Riley, formerly professor of mathematics in the Western State Normal School of Michigan, was appointed Assistant Professor of Sociology in the University of Missouri, in September, 1907. In

addition to his university work Dr. Riley acts as Director of the School of Philanthropy at St. Louis, a school for the training of social workers which is affiliated with the University of Missouri.

Dr. G. P. Watkins has resigned as Instructor in Political Economy and Statistics at Cornell University in order to accept a position as statistician with the Public Service Commission of New York City.

On March 20, Prof. L. S. Rowe, of the University of Pennsylvania, delivered an address before the American Academy of Political and Social Science at Philadelphia, on The Influence of the United States in South America. Immediately preceding the session the Peruvian Minister transmitted to Dr. Rowe the insignia of office of the honorary professorship of law conferred upon him by the University of San Marcos of Lima, Peru. The Argentine Minister also presented to him the diploma of the honorary degree of doctor of laws which had been conferred upon Dr. Rowe during his visit to the Argentine Republic.

Dr. Frank R. Rutter, of the Bureau of Statistics, Department of Agriculture, has been detailed for two years to do special work in Europe with headquarters at London.

A new department of sociology founded by Mr. J. Martin White, honorary treasurer of the English Sociological Society, has been inaugurated in the University of London. Two new professors preside over the department, Professor Hobhouse and Professor Westermarck. The department was formally opened on December 17 by addresses by Professor Hobhouse on The Roots of Sociology, and Professor Westermarck on Sociology as a University Study.

Prof. Henry R. Seager of Columbia University will be on leave of absence during the college year 1908-1909. He will spend part of the year in Europe.

During the past year Prof. J. W. Jenks of Cornell University has devoted a large part of his time, outside of his regular university duties, to the work of the Immigration Commission, of which he is a member. In connection with that work he visited, last summer, all of the important immigration stations along the Canadian border from Quebec to Vancouver, and along the Pacific coast to the Mexican border. During the year, he has, in connection with his

colleagues, been organizing and directing various lines of investigation—part of them statistical in their nature—others more general studies of the social effects of immigration.

The professorship of laws at Trinity College, Dublin, which recently became vacant by the retirement of Mr. Brougham Leech, has been conferred on Prof. C. F. Bastable. Professor Bastable will continue to hold the professorship of political economy.

Prof. F. W. Taussig of Harvard University will deliver the Henry Ward Beecher lectures at Amherst College during the months of March and April. The lectures will deal with some phases of the tariff history of the United States since the Civil War, with special reference to iron and steel, the textile industries, and sugar.

The following research work is in progress at the University of Missouri in the department of sociology: Prof. T. J. Riley is writing a History of the Poor Law and of Public Relief in Missouri, under the auspices of the Carnegie Institution. Mr. C. B. Miller, and Mr. W. T. Cross, graduate students in sociology, are investigating county outdoor relief in Missouri. This investigation is under the auspices of the School of Philanthropy at St. Louis, and is made possible by a grant from the Sage Foundation. A number of the students of the School of Philanthropy are investigating the cost of living in St. Louis, the expense of this investigation being also borne by the Sage Foundation.

Dr. Francis Walker, of the Bureau of Corporations, has been in Europe for several months making an investigation of the conditions of the foreign iron and steel industry for the Bureau. About three years ago Dr. Walker made a similar investigation of the oil industry in Europe.

Dr. Adna F. Weber, formerly chief of the Bureau of Labor Statistics of the state of New York, was appointed in November to the position of Chief of the Bureau of Statistics and Accounts, Public Service Commission, first district, New York. His new address is Tribune Building, 154 Nassau St., New York City.

Prof. Edwin R. A. Seligman was recently made chairman of the board of trustees of the Bureau of Municipal Research in New York.

The other members of the Bureau are Messrs. R. Fulton Cutting, Albert Shaw, Carroll D. Wright, George McAnemy and Frank Tucker.

The Washington Economic Society, at Washington, D. C., has largely increased its membership and has held several interesting meetings during the present year. Its officers are as follows: President, Hon. James Rudolph Garfield, secretary of the interior; Vice-Presidents, Dr. Charles P. Neill, commissioner of labor, Dr. Henry Parker Willis, and Dr. E. Dana Durand; Secretary and Treasurer, Mr. J. H. Fishback.

Among the papers presented have been one on Administrative Regulation of Corporations, by Hon. Herbert Knox Smith, commissioner of corporations, one on Employers' Liability vs. Workmen's Compensation, by Mr. Launcelot Packer, one on the Currency Question, by Congressman E. J. Hill, of Connecticut, and one on Government Mediation in Labor Disputes, by Chairman Martin A. Knapp, of the Interstate Commerce Commission.

The University of Wisconsin has just received a valuable addition to its library for the study of the labor movement by the gift of the extensive library of rare German socialistic literature, collected during a life time by Hermann Schlüter, editor of the New York *Volkszeitung*. The collection was given to the University by William English Walling of New York City and a number of other men who are interested in the work of the American Bureau of Industrial Research which has its headquarters in Madison. The Schlüter collection is said to be the most complete library of German socialistic literature in existence. It includes among other rare books the first works of Marx and Engels.

Dr. Delos F. Wilcox has recently been appointed Chief of the Bureau of Franchises, Public Service Commission, first district, New York. His new address is 125 Fifth Street, Elmhurst, New York.

Mr. David L. Wing, after an absence of nearly a year, has resumed his duties as a Special Examiner in the Bureau of Corporations at Washington.

The *Bulletin* of the New York Public Library for March, 1908, (pp. 192-228) contains a list of works relating to money and banking.

The Committee of One Hundred on National Health, of which Prof. Irving Fisher is president and Dr. Edward T. Devine is secretary, published in March the first number of its magazine *American Health*. The magazine is to be published bi-monthly, and is the official organ of the American Health League.

Dr. Abraham Berglund, formerly of Columbia University, has recently been appointed Instructor in Economics in Washington State College.

Prof. E. R. A. Seligman of Columbia University has in preparation a third revised and enlarged edition of his *Shifting and Incidence of Taxation*.

Among recent translations of Professor Seligman's works are a Russian and a Japanese translation of the *Principles of Economics*, a Spanish and a Russian translation of the *Economic Interpretation of History*, and an Italian translation of the *Shifting and Incidence of Taxation*. There will also be published shortly French translations of his three books on finance—i. e., *Progressive Taxation*, *Shifting and Incidence of Taxation*, and *Essays in Taxation*.

Prof. Walter F. Willcox, of Cornell University, has been granted by the trustees a leave of absence for the second half of the academic year 1908-1909. He expects to spend most of the time in Europe.

A noteworthy and important addition to the periodical literature of the social sciences is *The Sociological Review*, the organ of the English Sociological Society. The first number of the *Review* was published January 15. The chairman of its editorial committee is Prof. L. T. Hobhouse, who was recently appointed to one of the professorships in the newly established department of sociology in the University of London. Associated with him on the editorial committee are a number of others equally eminent in English economic and sociological circles, such as Prof. Edward Westermarck, also of the University of London, Prof. Patrick Geddes, Mr. J. A. Hobson, Mr. V. V. Branford, and Mr. Benjamin Kidd.

The *Review* will be published quarterly, and will take the place of the annual volume of collected papers formerly issued by the Sociological Society.

Fuel, a weekly journal devoted to coal, coke and kindred industries, which is the official paper of the Iowa Coal Operators Associ-

ation, printed in its issue for January 14, a long editorial calling attention to the various association meetings held at Madison in December, and urging business men to join such scientific associations and to attend their meetings. The closing paragraph of the editorial says:

"There is little to pay, and there is little time required for attending the meetings, and in return the business man, who is open to suggestion, may in spoken words and in the printed matter he receives reap a larger dividend than on any other investment he may make of either the same amount of money or the same amount of time."

The forty-sixth annual convention of the National Education Association will be held at Cleveland, Ohio, from June 29 to July 3. The general topic of the department of Manual Training will be the Place of Industries in Education.

Harvard University has recently taken action to establish a Graduate School of Business Administration. College graduates only will be admitted as regular students, and in addition to the general requirements of the bachelor's degree for admission, a few definite requirements, such as modern languages and economics, may be imposed as essential to efficiency in the advanced work of the school. The course of study will cover two years. Prof. Edwin F. Gay has been appointed Dean of the school.

Prof. Don C. Barrett has resigned the deanship of Haverford College in order to devote all of his time to the work of the department of economics.

Prof. Charles H. Hull has been elected Dean of the College of Arts and Sciences, Cornell University to succeed Prof. A. Ross Hill, who recently resigned to accept the presidency of the University of Missouri.

Prof. Robert C. Brooks has recently accepted a call to the new chair of political science at the University of Cincinnati. For the past four years Dr. Brooks has been Professor of Economics and Politics at Swarthmore College. Mr. Louis N. Robinson, of Cornell University, has been appointed Instructor in Economics at Swarthmore College for the coming college year. Dr. J. Russell

Smith, of the University of Pennsylvania, will also give a course at Swarthmore.

A recent bulletin of Yale University announces a series of courses for training for business. The series includes ten courses on banking, insurance, railroads and commerce; seven on commercial application of geology and forestry, and ten on the commercial application of law.

Wisconsin Public Utilities Law. The new Public Utilities Law adopted by the legislature of Wisconsin in 1907, confers upon the State Railroad Commission the regulation of all local public utilities furnishing light, heat, water and power. The law contains practically the same provisions regarding procedure, hearings, court appeals, etc., as were contained in the Railroad Commission Law adopted two years before. The law of 1907, however, involves certain features in addition relating to procedure growing out of the necessity of dealing with franchises granted by local authorities. The law brings public utilities operated by municipalities under exactly the same provision as those operated by private corporations. In all cases it is provided that the Commission shall ascertain the true value of the property actually used for the convenience of the public, and shall prescribe detailed uniform systems of accounts to be kept both by companies and municipalities. There are special provisions for the analysis of costs in order that statistical tables may be published at least once a year, showing the comparative unit costs throughout the state for all public utilities of the same class. Specific instructions are given for carrying depreciation accounts. Municipal governments are given authority to regulate the services and extensions of private corporations operating within their jurisdiction, but not to regulate the prices charged. This is reserved for the State Commission upon investigation. In case any citizen or the public utility corporation is dissatisfied with the municipal regulation, it has an appeal to the State Commission. Opportunity is offered to all public utility corporations operating under limited franchises to accept in lieu thereof an indeterminate permit which may be terminated at any time upon the option of the municipal government by purchase at a just compensation to be ascertained by the State

Commission. The municipalities are given complete power to purchase, construct and operate public utilities except street railways, and a collateral act of the legislature authorizes municipalities to issue certificates of indebtedness carrying a lien upon the public utility property and not upon the taxable property of the city. This provision is made in order to escape the constitutional limitation of municipal indebtedness. The State Commission has authority to regulate the operation of utilities owned by the municipalities in the same way as when they are owned by private corporations, including the regulation of rates, charges and services.

JOHN. R. COMMONS.

Public Service Commission Law of the State of New York. Perhaps the most noteworthy feature of this law is the recognition contained in it of the fact that similar principles underlie the relationship between the public and all classes of corporations engaged in furnishing so-called public utilities, or common service. Upon this recognition rests the establishment in a single commission of jurisdiction over such service as transportation by rail (or by rail and water jointly) and the supply of gas and electricity for light, heat or power. The omission of telegraph and telephone service from the jurisdiction of the public service commission is one the explanation of which is not apparent upon the face of the matter.

Nearly as remarkable as the extent of the jurisdiction of the commissions created by this law is the division of the state into two districts and the creation of a distinct commission for each. This leads to a somewhat awkward apportionment of the jurisdiction over corporations operating in both districts and it is to be feared that in practice it will lead to some inconvenience. A better solution of the problem would probably have been to create a commission of seven members and give it jurisdiction over the entire state. The commission thus constituted could have acted through committees, keeping thus in touch with the entire situation, and could have avoided a considerable portion of the duplication of administrative organization that under the present arrangement necessarily exists.

The jurisdiction of the Public Service Commissions over common carriers engaged in state commerce corresponds substantially with

that of the Interstate Commerce Commission over common carriers engaged in interstate commerce. The New York statute specifies in addition however, car companies, freight companies, freight-line companies, and all persons and associations of persons, whether incorporated or not, operating such agencies for public use in the conveyance of persons or property within the state. It also provides that "Every railroad corporation or other common carrier engaged in the transportation of freight shall, upon reasonable notice, furnish to all * * * who may apply therefor, and offer freight for transportation, sufficient and suitable cars for the transportation of such freight in carload lots. Every * * * corporation shall have sufficient cars and motive power to meet all requirements for the transportation of persons and property, which may reasonably be anticipated, unless relieved therefrom by order of the Commission." The Commission is directed to "determine the just, reasonable, safe, adequate and proper regulations, practices, equipment, appliances and service * * * to be in force, to be observed and to be used in * * * transportation of persons, freight and property." The law also contains novel provisions to prevent the further creation of holding companies and the excessive capitalization of franchises and other intangible elements.

On the other hand it omits pipe-lines for the transportation of oil, and the "long and short hauls" clause of the federal act in its present emasculated form is adopted without substantial modification.

The provisions relating to gas and electric corporations, the service to be required of them and the control over their accounts, records, capitalization, issue of securities and the like are along substantially the same lines as those relating to transportation.

WM. J. MEYERS.

Railroad Rate Litigation. The state railroad legislation of the present year has already resulted in considerable litigation, in the course of which many questions have been raised, some being merely questions of technical law, while others relate to important matters of constitutional construction and public policy. Of course one fundamental problem is involved in practically all of the litigation—the question whether the legislative rates are

reasonable and just—but time has not as yet permitted a final determination of that point in any state. Meanwhile attention is arrested by other issues, incidental, but important.

The most complicated situation exists in the South, and especially in North Carolina and Alabama, where the leading questions have arisen from a conflict between state officers and the federal courts. Certain railroad companies brought suit in the federal courts to annul the rates fixed by the legislatures, and temporary injunctions were issued suspending the operation of the rates, pending the determination of their constitutionality. Much popular feeling was thus aroused, many persons indignantly resenting the injunctions as an interference by the federal government with the right of the states to enforce their laws. This view was adopted by some of the state officers, who took vigorous steps in defense of "state rights." In North Carolina the Southern Railway was fined; two ticket agents who exacted more than the statutory fare were prosecuted and condemned to the chain gang, and finally the President of the Southern was arrested. All three men, however, were released on writs of *habeas corpus* issued by the federal judge who had granted the injunction. At this point the railroads accepted the Governor's terms, agreeing to operate the objectionable rate pending the trial of test cases necessary to the determination of all important questions in controversy. The state on its part agreed to forbear from further prosecution. In Alabama the injunction was met by equally prompt action. A statute had been passed authorizing the revocation of the license of any railroad company which should take a case of this character to a federal rather than a state court. The Secretary of State exercised his authority by cancelling the license of the Southern Railway, which thereupon agreed to operate the rates pending judicial proceedings. In consideration of this agreement the license was restored.

The most important question involved in these complications relates to the power of the federal courts to issue the temporary injunctions. It is settled law that the rates made by legislatures or commissions may be so low as to amount to a deprivation of property without due process of law, which is forbidden by the fourteenth amendment, and that therefore it is within the competence of all courts, especially those of the United States, to

investigate and determine the constitutionality of such rates. Under this rule the jurisdiction of the federal courts cannot be doubted, but a serious question has been raised as to the right of those courts to suspend state laws by temporary injunctions before the question of their constitutionality has been determined, or even examined. The approval of the Supreme Court seems to rest on the practice followed by the circuit courts, but the propriety of the practice will probably be vigorously contested in the trial of the cases now in the courts.

In North Carolina the validity of the injunction secured by the Southern Railway has also been denied by some on the ground that the suit which resulted in this issue was in effect a suit against the state, which, under the eleventh amendment, a federal court should not have entertained. This raises the long vexed question as to whether a suit against state officers is a suit against the state. The present view of the supreme court is not wholly clear, but seems to be that when certain officers are "especially charged" with the enforcement of a statute, a suit to restrain them is not a suit against the state, but that when the action is brought against officers not so charged, it is a suit against the state.¹ Now the litigation in North Carolina involved the Attorney General. That officer is not charged by the act in question with any duty whatever in reference to it, but a previous general law requires the Corporation Commission to report to him violations of law by corporations, and directs him to take whatever action "he may deem expedient."² Thus a nice question is raised as to whether he is "specially charged" with the enforcement of the passenger rate Act. If he is not the suit would seem to be one against the State.

Still another constitutional question has appeared in North Carolina, where the validity of the writs of *habeas corpus* issued by Judge Pritchard is disputed. That jurist based his action on the ground that his decree of injunction had authorized the railroad officers and agents to ignore the Act, and that they could not be held in custody for acting in pursuance of that decree. In part, also, he justified the writs on the ground that the penalty clause of the Act was unconstitutional. He held, in effect, that the leg-

¹Fitz v. McGhee, 172 U. S. 576.

²Revisal of 1905, sec. 1113.

islature had imposed excessive penalties with the deliberate purpose of coercing the railroads into acquiescence, and that that amounted to a denial of "the equal protection of the laws," secured to all persons by the fourteenth amendment. Both of these contentions are open to question, and it is possible that Judge Pritchard may be reversed by the Supreme Court. If his view of the penalty clause is upheld, it will be necessary for the legislature to enact another and more moderate provision.

In Alabama the right of the state to repeal the license of the Southern is in dispute. It has been well settled by the Supreme Court that when a case falls within the constitutional jurisdiction of the federal courts, no legislature can deprive one of his right to resort to such courts,¹ but it has also been laid down that when a corporation institutes such a suit in defiance of state law, the state may punish it by revoking its license.² This last rule is simply a phase of the general doctrine that no state is required to admit foreign corporations, but may exclude them on any grounds whatsoever. To this doctrine, however, one important exception is recognized. In exercising its power no state is permitted to "impose a restriction which would in effect constitute a regulation of interstate commerce."³ Moreover Congress has by statute⁴ authorized all steam railroads as channels of interstate commerce. Whether, then, a state can repeal the license of a corporation engaged in the operation of an established avenue of interstate commerce is a question of interest and of no little significance. It has never been passed upon by the Supreme Court, but the Alabama case will doubtless lead to a decision upon it.

In the litigation now in progress in Minnesota one other important question has been raised by counsel for the railroads. It is evident that when two adjoining states establish rates for local traffic, such rates must have a decided influence on interstate rates, at least so far as passenger traffic is concerned. From this fact it is argued that state regulation amounts to an interference

¹ *Insurance Co. v. Morse*, 87 U. S. 445.

² *Doyle v. Insurance Co.*, 94 U. S. 535.

³ Cooley: *Constitutional Law*, p. 202.

⁴ U. S. Rev. Stat., Sec. 5258.

with interstate regulation. The Interstate Commerce Commission might establish a rate of two and one half cents, while the states might enact laws which would in effect compel the interstate rate to come down to two cents. The federal judge has admitted that he is strongly impressed by this argument, but no decision upon it has as yet been rendered.

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